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09/556,303	04/24/2000	Joann Ruvolo	AM9-99-0134	7178

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LACASSE & ASSOCIATES, LLC  
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ALEXANDRIA, VA 22314

EXAMINER
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MEINECKE DIAZ, SUSANNA M

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 12/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/556,303

Applicant(s)

RUVOLO ET AL.

Examiner

Susanna M. Diaz

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 23-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 23-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 17, 2003 has been entered.

Claims 1-22 stand as cancelled.

Claims 23-39 have been added and are presented for examination.

### ***Oath/Declaration***

2. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:  
It does not identify the post office address of each inventor. The residence information may be provided on either on an application data sheet or supplemental oath or declaration.

### ***Specification***

3. The disclosure is objected to because it contains an embedded hyperlink and/or other form of browser-executable code. Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01.

***Claim Objections***

4. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 32(second occurrence) through 27 have been renumbered as claims 33-39 respectively. Please alter accordingly in the next response.

***Claim Rejections - 35 USC § 101***

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 32-38 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory

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subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts. Furthermore, mere intended or nominal use of a component, albeit within the technological arts, does not confer statutory subject matter to an otherwise abstract idea if the component does not apply, involve, use, or advance the underlying process. Claims 32-38 do not require the use of technology. In other words, the recited steps could be performed manually by a human. Claims 35 and 36 do not clarify which steps are explicitly carried out using a network; therefore, they do not remedy the technological arts issue raised. While claims 32-38 recite a useful, concrete, and tangible result, they are rejected for being non-statutory for failure to apply, involve, use, or advance the technological arts. It is respectfully suggested that at least one of the core steps (e.g., matching events) be explicitly executed by a computer processor in claims 32-38.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 23-39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Applicant utilizes various variations of the same term throughout the claims.

Please be consistent in the use of terminology and correct resulting antecedent basis

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problems. These inconsistencies make it difficult to understand if problems with antecedent basis exist or not. The following variations of similar terms have been identified:

calendar events, calendar event elements, said calendar event, calendar elements, registered events;

said event, said matched events, said match, said matched calendar events, fully satisfied event matches;

across networks, across networks element(s).

In claim 25, there is no antecedent basis for "said second entity" (lines 2-3).

In claim 29, it is not clear which term is modified by the phrase "the most favorable" (line 3). Does this term refer to the most favorable time or price/rate?

Method claim 33 is dependent from system claim 31. For examination purposes, it will be assumed that claim 33 is dependent from claim 32 instead.

Claim 34 is dependent from claim 32. In light of the fact that there were originally two instances of claim 32, it is not clear whether Applicant intends for claim 34 to be dependent from the first instance of claim 32 or the renumbered claim 33.

Method claim 35 is dependent from system claim 31. For examination purposes, it will be assumed that claim 35 is dependent from claim 32 instead.

Method claim 37 is dependent from system claim 31. For examination purposes, it will be assumed that claim 37 is dependent from claim 32 instead.

Method claim 38 is dependent from system claim 31. For examination purposes, it will be assumed that claim 38 is dependent from claim 32 instead.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 23-28, 30-36, 38, and 39 are rejected under 35 U.S.C. 102(e) as being anticipated by Barnett et al. (U.S. Patent No. 6,369,840).

Barnett discloses an electronic calendar event matching system, said system comprising:

[Claim 23] a calendar store (col. 10, lines 43-53);

a match server operatively connected to said calendar store by an electronic calendar application (col. 10, line 43 through col. 11, line 7), said match server comprising:

a request handler operatively connected to an event handler, said request handler routing requests for calendar event functions to said event handler, said event

handler allowing for the registration, modification, or deletion of an event (col. 10, line 43 through col. 11, line 7);

an event repository, said event repository cooperating with said event handler to store and update calendar event functions (col. 10, lines 43-53; col. 15, lines 14-44);

a response handler operatively notifying a requesting first entity that said calendar event has been registered, modified, or deleted (col. 15, lines 14-44 -- The "Save Appointment button" notifies the first entity of changes made. Also, such changes are presented to the first entity in the "MyCalendar" screen), and

a match engine performing a search of said event repository to locate a match for registered events, said match fulfilling the period of time, event criteria, minimum matching requirements, and attributes of an activity or an entity (Fig. 10; col. 12, line 47 through col. 13, line 11 -- A user searches the event repository by selecting categories, dates, and times of interest);

[Claim 24] a timer module and said match engine searches for matching events according to a schedule of said timer module (Fig. 10 -- Events can be searched by date and time);

[Claim 25] wherein upon location of a match of a calendar event, said response handler notifies said first entity and said second entity via said electronic calendar application (col. 14, lines 13-37 -- If the second entity decides to purchase tickets to a concert or register for an event sponsored by a first entity, the first entity must be notified in order to complete the purchase or registration);



[Claim 26] wherein said calendar event functions comprise categories (col. 9, lines 48-59);

[Claim 27] wherein said categories comprise at least one of: personal matching, job positions, job qualifications, meetings, and activities (col. 9, lines 48-59);

[Claim 28] wherein said categories comprise any of a commerce activity, service desired, service offered, item for sale, item desired for purchase, request for quote, delivery of pickup of an item or person(s), replenishment of supplies, or the reservation of the use of a facility, place, vehicle or object (col. 14, lines 13-37);

[Claim 30] wherein said system may be implemented locally or remotely on one or more computer-based systems, across networks or existing communication mediums (col. 7, lines 9-11);

[Claim 31] wherein said across networks element comprises any of LANs, WANs, cellular, Internet or Web based networks (col. 7, lines 9-11).

[Claims 32-36, 38, 39] Claims 32-36, 38, and 39 recite limitations already addressed by the rejection of claims 23-28, 30, and 31 above; therefore, the same rejection applies.

Furthermore, as per claim 38, Barnett teaches that a user can delete an event from his/her schedule (col. 8, lines 54-55). By doing this, it is understood that the user is deleting him/herself as an attendee to the deleted event.

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 29 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barnett et al. (U.S. Patent No. 6,369,840), as applied to claims 28 and 32, respectively, above.

[Claim 29] Barnett discloses the display of various available events during a given time period from which a user can select (Fig. 10). Barnett also teaches that a user can purchase tickets online to a selected event (col. 14, lines 13-20); however, Barnett does not expressly teach that a type of commerce activity is offered at various times which each offer the activity at variable prices or rates. Official Notice is taken that it is old and well-known in the art for a customer to be given the option of various times and prices for an event from which to select. For example, movie theaters typically show the same movie throughout the day, yet matinee prices (e.g., shows starting before 6 p.m.) are usually cheaper than movies shown after 6 p.m. This pricing practice encourages more moviegoers to fill up the theater during less crowded hours and it gives moviegoers a chance to save a few bucks by choosing a matinee show. Barnett gives the user an opportunity to purchase tickets to an event online (col. 14, lines 13-20) and he offers movies as an event category (col. 9, lines 56-57); therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's

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invention to offer a multiplicity of times for a commerce activity, wherein variable prices or rates are made available and from which the most favorable is selected in order to encourage event patrons to fill up the event during less crowded hours while giving these event patrons the chance to save some money by choosing less expensive event times.

[Claim 37] Barnett does not expressly teach the step of removing matched calendar events from the event repository when a fully satisfied event occurs; however, Barnett discloses the sale of tickets for a scheduled event, such as a concert (col. 14, lines 13-20). Official Notice is taken that it is old and well-known in the art to sell a limited number of tickets to a concert. This limit is usually placed to meet concert location regulations, such as those regarding safety regulations (e.g., maximum occupancy). Once all tickets are sold, ticket sales are usually ceased. Therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify Barnett to perform the step of removing matched calendar events from the event repository when a fully satisfied event occurs in order to control attendance at an advertised event, such as a concert which is held at a location in which occupancy is capped at a maximum number of attendees for safety reasons. In other words, removing the matched calendar event is analogous to ceasing the sale of tickets to a concert that has already been sold out.

**Conclusion**

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susanna M. Diaz whose telephone number is (703) 305-1337. The examiner can normally be reached on Monday-Friday, 9 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (703) 305-9643.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Receptionist whose telephone number is (703)308-1113.

Any response to this action should be mailed to:


**Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450**

or faxed to:

**(703)305-7687** [Official communications; including  
After Final communications labeled  
"Box AF"]

**(703)746-7048** [Informal/Draft communications, labeled  
"PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 22202, 7<sup>th</sup> floor receptionist.

  
Susanna M. Diaz  
Primary Examiner  
Art Unit 3623  
November 21, 2003